

### Remarks

We are in receipt of the Office Action dated September 7, 2006, and the following remarks are made in light thereof.

Claims 1-12 are pending in the application. Pursuant to the Office Action, claims 1-5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable under Bayne US 5,308,211 in view of Redding et al. US 5,466,110. This rejection was made final. Claims 6 and 12 were indicated to be directed to allowable subject matter, which applicant gratefully acknowledges.

Turning to the rejection, the Examiner cites Bayne for disclosing all the features called for in these claims except the upper latch member being fixed to the face plate. Redding et al. is cited for teaching the upper latch member being fixed to the face plate.

In the present invention, the lifting device called for in the independent claims 1 and 7 has a lower hook that is pivotally mounted to the lifting device and is moved by an actuator arm pivotally connected to the base and operatively connected to the hook (through an intermediate slide structure) so that when the lift device is moved from the raised, inverted position to the lower position, the hook is moved to the retracted position.

The operation of the lower latch member 110 of Bayne is shown in Fig. 5 and described in the specification at column 11, line 63-column 12, line 6. The lower latch member 110 is described as being pivoted relatively downward from its extended position into a retracted position (shown in dotted line as 110') automatically in response to engagement with the sidewall of a "European style" refuse receptacle cart being lifted thereby. This is confirmed by reference to Figs. 10 and 12A-<sup>E</sup><sub>B</sub> of Bayne, which ✓

sequentially show the operation of its lifter with a "Domestic style" cart. Specifically, the hook 110 in Bayne is not moved to its retracted position due to the actuator moving a slide to which the hook is mounted to cause the hook to engage a portion of the face plate (as required by claim 1). Further, the hook 110 of Bayne is not moved to its retracted position in response to the lifter being moved to its lower position (as required by claim 7). Accordingly, Applicant submits that none of claims 1-5 and 7-11 is rendered unpatentable over Bayne in view of Redding et al.

In the Office Action of September 7, 2006, the Examiner states with regard to Bayne that, "[w]hen the device operates it starts with the hook and slide in a retracted position and as it lifts the actuator arm moved the slide and hook to an extended position where it engages a lower handle of a cart. If the lower hook did not retract via the slide mechanism, it would not be able to release the cart. As such, it does retract due to an operative connection to an "actuation arm."

With all due respect, the Examiner is mistaken in his understanding of Bayne. The hook 110 of Bayne never retracts due to contact with the face plate 100, as required by claim 1. As best seen in Fig. 5, the hook 110 is mounted to the lower, shorter leg of an L-shaped weldment that comprises an "extension number" 226 in such manner that it can never be retracted behind the face plate 110. Further, the hook 110 of Bayne is not moved to the retracted position of Fig. 5 by an actuator arm, as required by claim 7. As clearly described and shown in Bayne, the hook 110 is simply pushed to the retracted position by contact with the wall of a "European style" cart, (see, Col. 11, l. 63-Col. 12, l. 11).

Accordingly, Bayne does not disclose or suggest either a lifter in which the lower hook is moved to a retracted position due to an actuator arm moving a slide along a tract to cause the hook to engage a position of the face plate (as required by claim 1), or a lifter where the lower hook is moved to the retracted position by an actuator arm (as required by claim 7). Thus, Applicant contends that the pending claims are not rendered obvious over Bayne in view of Redding et al.

In view of the foregoing, Applicant respectfully requests reconsideration and allowance of the pending claims. An early Office Action in this regard is earnestly solicited.

Respectfully submitted,

  
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Stephen B. Heller

Cook, Alex, McFarron, Manzo,  
Cummings & Mehler  
200 West Adams Street  
Suite 2850  
Chicago, Illinois 60606  
312-236-8500